

**REMARKS**

Applicants have cancelled claims 4, 17, 21, and 22, amended claims 1, 5, 7, 10, 11, and 18, and added new claims 23 and 24 as set forth above. No new matter has been added by way of these amendments. Claims 5 and 18 were amended to correct their dependencies. Applicants note with appreciation the Office's indication that claims 2-6, 8-14, and 16-20 as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

The Office has rejected claims 21 and 22 under 35 U.S.C. 112, second paragraph, as being indefinite asserting they fail to point out what is included or excluded by the claim language. Applicants have cancelled claims 21 and 22. In view of the foregoing cancellation, the Office is respectfully requested to reconsider and withdraw this rejection.

The Office has objected to claim 10 asserting Applicants may be intending to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph by using "means for" language reciting function, but not reciting sufficient structure of the means referred to in the specification. Applicants are unaware of any such requirement as suggested by the Office, nevertheless Applicants have amended claims 10 and 11 as set forth above so these claims are no longer use means plus function format. In view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw this objection.

The Office has rejected claims 1, 7, and 15 under 35 U.S.C. 102(e) as being anticipated by US Patent No. 7,033,343 to McWethy et al (McWethy). The Office asserts McWethy discloses a spring retainer for a syringe (Figs 1-6) with a barrel (20), a plunger (90), a spring (70), and a retractable needle (65). The Office asserts the spring retainer (82, 40) includes a housing having first (82) and second (40) body members adapted to releasably maintain the spring in a compressed state until rotational disengagement of the first and second body members allow decompression of the spring to facilitate retraction of the retractable needle into the barrel and cites to FIGS 1-6; col. 7, line 17 to col. 8, line 20.

McWethy does not disclose or suggest, "said spring retainer comprising a housing having first and second body members adapted to releasably maintain said spring in a compressed state until rotational disengagement of said first and second body members

allows decompression of said spring to facilitate retraction of said retractable needle into said barrel” as recited in claims 1 and 7. As noted above, the Office has asserted that in McWethy a housing has a first (82) and second (40) body members adapted to releasably maintain the spring in a compressed state until rotational disengagement of the first and second body members allow decompression of the spring. Accordingly, the Office’s attention is respectfully directed to col. 6, lines 51-54 in McWethy which states, “[T]he plunger sleeve 82 is rotated approximately 90 degrees to lock the plunger assembly to the inner housing [40].” However, Applicants note there is no teaching or suggestion in McWethy that this plunger sleeve 82 and inner housing 40 rotatably disengage to allow the spring to decompress. Instead, at col. 7, line 65 to col. 8, line 1, McWethy states, “The user pushes the button 51 downwardly out of engagement with the front locking window 24. The inner housing 40 is then free to be displaced rearwardly under the bias of the spring 70.” This clearly states that in McWethy pushing the button 51 downwardly out of engagement with the front locking window 24 allows decompression of spring 70 to drive retraction. The pushing of a button downwardly out of engagement of a window is not a rotational disengagement of first and second body member that allows decompression of the spring as recited in the claims.

Additionally, McWethy does not disclose or suggest, “wherein the second body member is adapted to be engageable by said plunger so that depression of said plunger triggers rotational disengagement of said first body member and said second body member” as recited in claims 1 and 7. Applicants have reviewed McWerthy and there is no teaching or suggestion that the plunger 90 in McWerthy interacts with inner housing 40 to rotatably disengage plunger sleeve 82 and housing 40 to thereby allow decompression of spring 70.

Accordingly, in view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claims 1 and 7 and the objections to claims. Since claim 15 depends from and contains the limitations of claim 7, it is distinguishable over the cited reference and patentable in the same manner as claim 7.

As noted earlier, the Office has objected to claims 2-6, 8-14, 16-20 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the foregoing amendments and remarks with respect to claims 1 and 7, no further amendment of claims 2-6, 8-14, 16-20 is believed to be necessary. Accordingly, these claims are believed to be in condition for allowance and a notice to that effect is respectfully requested.

Applicants also have added new independent claims 23 and 24 which comprise allowed dependent claims 2 and 8, respectively, rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, these claims are believed to be in condition for allowance and a notice to that effect is respectfully requested.

In view of all of the foregoing, Applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

Date: June 15, 2010

/Gunnar G. Leinberg/  
Gunnar G. Leinberg  
Registration No. 35,584

NIXON PEABODY LLP  
1100 Clinton Square  
Rochester, New York 14604-1792  
Telephone: (585) 263-1014  
Facsimile: (585) 263-1600